In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 9794 of 2006

Date of Decision: 31.08.2006

Ramesh Kumar

…Petitioner

Versus

State of Haryana and another

…Respondents

**CORAM: HON'BLE MR. JUSTICE M.M. KUMAR**
**HON'BLE MR. JUSTICE M.M.S. BEDI**

PRESENT: Mrs. Abha Rathore, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,
for the respondents.

**JUDGMENT**

**M.M. KUMAR, J. (Oral)**

The prayer made in this petition is for issuance of directions to the respondents to promote the petitioner as Electrician w.e.f. 11.8.2004 from which date person junior to him was promoted. It has further been prayed that all consequential benefits on promotion of the petitioner be given to him and accordingly the order dated 3.3.2006 (P-4) giving him promotion on the post of Electrician from the date of that order be modified.

The facts are not in serious dispute. The petitioner who belongs to Backward Class category was appointed as a Helper Electrician by the General Manager, Haryana Roadways, Karnal. He

worked in the Karnal Depot from 24.3.1982 to 14.6.1984. He was thereafter transferred to Panipat, which was a sub-depot of Karnal. The name of the petitioner in the seniority list of Electrician of the Haryana Roadways figures at Sr. No. 3. On 10.1.1993, Panipat was made full fledged depot and one Shri Rampal s/o Shri Janardhan, who was at Sr. No. 4, was promoted as Assistant Electrician in Karnal, whereas the petitioner in the seniority list of Helper in Panipat Depot was at Sr. No. 1. After a short stint at Gurgaon Depot where he came to be posted on 25.4.1995, the petitioner was transferred back to Panipat Depot on 28.8.1995. One Shri Ram Dhan, who was at Sr. No. 9 in the seniority list of Helpers in Panipat, was made Assistant Electrician on 21.12.1995. The petitioner filed Civil Suit No. 218 of 1998 challenging the promotion of Shri Ram Dhan as Assistant Electrician over and above the petitioner. In the suit, a further prayer was also made for issuance of appropriate direction to the defendant-respondents to promote the petitioner as Assistant Electrician. On 6.9.2000, the suit of the petitioner was decreed and promotion of Shri Ram Dhan, who was junior to the petitioner, was held to be illegal. A direction was issued to the respondents to promote the petitioner to the post of Assistant Electrician according to his seniority before his transfer from Panipat to Gurgaon on 25.4.1995, when he was transferred to Gurgaon Depot. The judgment and decree passed by the Civil Judge was upheld up to this court in the Regular Second Appeal and even Special Leave Petition filed by the respondents was dismissed by Hon'ble the Supreme Court. However, the respondents did not consider the case of the petitioner for promotion and arbitrarily promoted Shri Ram Dhan, junior to the petitioner, as

Electrician on 11.8.2004. The petitioner filed execution proceedings and thereupon he was promoted as Assistant Electrician on 19.9.2005. The petitioner was to rank senior to Shri Ram Dhan s/o Shri Rura Ram as the respondents had promoted Shri Ram Dhan to the post of Electrician on 11.8.2004, however, the petitioner has been promoted as Electrician w.e.f. 3.3.2006. The petitioner has prayed for issuance of a direction to promote him w.e.f. 11.8.2004 when Shri Ram Dhan, junior to the petitioner, was promoted as Electrician.

The only ground urged by the respondents in the written statement is that against the order dated 15.3.2004, dismissing the Special Leave Petition, a review petition is pending and in the execution proceedings initiated by the petitioner to execute the judgment and decree, dated 6.9.2000, they have already complied with the decree by passing an order on 3.3.2006 (P-4) granting promotion to the petitioner as Electrician with immediate effect. It has also been urged that departmental remedy has not been availed by the petitioner.

We have heard the learned counsel for the parties and are of the view that once the Civil Court has passed a decree on 6.9.2000 declaring the petitioner senior to Shri Ram Dhan in the seniority list of Helper Electrician and has issued direction for his promotion from the date Shri Ram Dhan was promoted as Assistant Electrician on 21.12.1995, there cannot be any doubt that for further promotion even on the post of Electrician the petitioner has to be considered senior to Shri Ram Dhan. It is admitted position that Shri Ram Dhan, junior of the petitioner as Assistant Electrician, has been further promoted as Electrician on 11.8.2004, whereas the petitioner has been given

promotion on 3.3.2006 with immediate effect, as is evident from the order Annexure P-4. Therefore, we are of the considered opinion that the petitioner deserves to be considered for promotion w.e.f. 11.8.2004 on the post of Electrician when Shri Ram Dhan has been promoted as Electrician. Accordingly, we direct the respondents to consider the case of the petitioner for promotion to the post of Electrician w.e.f. 11.8.2004 and if he is found entitled to be promoted then he shall rank senior to Ram Dhan even as Electrician. He shall also be entitled to all consequential benefits such as pay, increments, pension etc. Let the needful be done within two months from the date of receipt of a copy of this order.

The writ petition is allowed in the above terms.

**(M.M. KUMAR)**
**JUDGE**

**(M.M.S. BEDI)**
**JUDGE**

**August 31, 2006**
Pkapoor